

Serial No. 10/788,845
60246-339**REMARKS**

Applicant thanks the Examiner for the remarks and analysis contained in the Non-Final Office Action mailed on October 12, 2006. New claims 19-23 have been added. Applicant respectfully requests reconsideration of this application.

Claims 1-3, 8-11, 14, 17 and 18 are rejected under 35 U.S.C. §102(e) as being clearly anticipated by *Reisfeld, et al.* (U.S. Patent No. 6,884,399). Applicant respectfully traverses this rejection. Claims 1 and 14 require that an inner compartment be pivotally attached to an outer compartment. *Reisfeld, et al.* fails to disclose this feature.

Reisfeld, et al. discloses a photocatalytic purifier 10 which is disposed in a housing 102 between a media filter 50 and a fan coil 30. The photocatalytic purifier 10 is surrounded by a modular enclosure 60. A retractable alignment mechanism 62 is configured to move the modular enclosure 60 of the photocatalytic purifier 10 between an in use position and a retracted position. Figures 4 and 5 of *Reisfeld, et al.* appear to show the alignment mechanism 62 attached to the media filter 50 such that the photocatalytic purifier 10 is pivotally attached to the media filter 50 and not to the housing 102. Therefore, *Reisfeld, et al.* fails to disclose that the modular enclosure 60 is pivotally attached to the housing 102. Rather, the modular enclosure 60 is pivotally attached to the media filter 50. Also, the media filter 50 of *Reisfeld, et al.* is stationary, unlike Applicant's particle filter. Claims 1 and 14, and all those claims depending therefrom, are allowable.

Claims 4-7, 12, 13, 15 and 16 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Reisfeld, et al.* in view of either *Bowen* (U.S. Patent No. 3,520,115) or *LaFerriere, et al.* (U.S. Patent No. 6,797,042). As to claims 4, 5 and 12, the Examiner argues it would have been obvious to modify *Reisfeld, et al.* with either *Bowen* or *LaFerriere, et al.* to provide the removable attachment of the inner compartment relative to the outer compartment. Applicant respectfully traverses this rejection.

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There is no *prima facie* case of obviousness because the proposed combination cannot be made. When there is no benefit to making a combination, the legally required motivation for making the combination is missing and there is no *prima facie* case of obviousness.

In this instance, there is no benefit to making the combination because *Reisfeld, et al.* teaches that the alignment mechanism 62 includes an arm 64 that is used to hold the modular enclosure 60 in the in-use position (see column 4, lines 65-67). Therefore, adding fasteners such as shown by *Bowen* and/or *LaFerriere, et al.* to the *Reisfeld, et al.* arrangement would be useless or redundant at best because the arm 64 already adequately provides removable attachment of the modular enclosure 60. The Examiner's proposed combination appears to be based on hindsight reasoning. Therefore claims 4, 5 and 12 are not obvious.

Additionally, the Examiner rejected claims 6, 7, 13, 15 and 16 under 35 U.S.C. §103(a) as being unpatentable over *Reisfeld, et al.* based upon obvious common knowledge. The Examiner argues that it would be obvious to one of skill in the art to pivot the modular enclosure 60 of *Reisfeld, et al.* to any position away from the in-use position. Applicant respectfully disagrees with this rejection. First, as stated above, *Reisfeld, et al.* does not disclose that the modular enclosure 60 is pivotally attached to the housing 102.

Further, there is no motivation for making the proposed combination. The arrangement of *Reisfeld, et al.* could not properly function in the manner suggested by the Examiner. For example, the modular enclosure 60 could not be pivoted to any position away from the in-use position because the arm 64 limits the amount of pivot the modular enclosure 60 may move. The entire functionality of *Reisfeld, et al.* would change if modified to operate in the suggested manner, thus teaching away from the suggested modification. Therefore, claim 6, 7, 13, 15 and 16 are also not obvious.

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New claims 19 and 23 require that the inner compartment house a particle filter. New claim 20 requires that the inner compartment include opposing side portions. New claims 21 and 22 recite numerous features related to the hinging of the inner compartment relative to the outer compartment. None of these features are shown or suggested by the prior art.

Accordingly, claims 1-23 are in condition for allowance.

Applicant believes that additional fees of \$150.00 are required for three claims in excess of twenty. If any additional fees are due, however, the Commissioner is authorized to charge deposit account number 50-1482, in the name of Carlson, Gaskey & Olds, P.C., for any additional fees or credit the account for any overpayment.

Respectfully submitted,

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CERTIFICATE OF FACSIMILE

I hereby certify that this Amendment is being facsimile transmitted to the United States Patent and Trademark Office, 571-273-8300 on January 4, 2007.


Theresa M. Palmateer

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